

HOUSE BILL 241

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11r0557
CF SB 240

By: Delegate Anderson (By Request – Baltimore City Administration), the Speaker (By Request – Administration), and Delegates Conaway, Oaks, B. Robinson, Tarrant, Washington, ~~and Wilson~~ Wilson, Arora, Barkley, Clippinger, Davis, Dumais, Mitchell, Niemann, Reznik, and Waldstreicher

Introduced and read first time: January 31, 2011

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2011

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Restrictions Against Use and Possession of Firearms**

3 FOR the purpose of expanding the prohibition against the use of handguns and certain
4 antique firearms in the commission of certain crimes of violence or felonies to
5 include the use of any firearm, whether loaded or unloaded; altering the
6 predicate crimes and increasing the maximum term of imprisonment applicable
7 to a violation of the prohibition against a ~~certain~~ person who was previously
8 convicted of a certain crime of violence or drug-related crime possessing a
9 certain regulated firearm; providing that the imposition of certain mandatory
10 minimum sentences are within the discretion of the court under certain
11 circumstances; providing that certain mandatory minimum sentences may not
12 be imposed unless the State's Attorney notifies a certain person in writing at a
13 certain time of the State's intention to seek a certain sentence; prohibiting a
14 person from possessing a rifle or shotgun if the person was previously convicted
15 of a certain crime of violence or drug-related crime; establishing certain
16 penalties; ~~prohibiting a certain court from suspending any part of a certain~~
17 ~~sentence; providing that a certain person is not eligible for parole during a~~
18 ~~certain mandatory minimum sentence, with a certain exception;~~ providing that
19 each violation of a certain provision of law is a separate crime; defining a
20 certain term; and generally relating to the use and possession of firearms.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Criminal Law
3 Section 4–204
4 Annotated Code of Maryland
5 (2002 Volume and 2010 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Public Safety
8 Section 5–133(c)
9 Annotated Code of Maryland
10 (2003 Volume and 2010 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Public Safety
13 Section 5–143
14 Annotated Code of Maryland
15 (2003 Volume and 2010 Supplement)

16 BY adding to
17 Article – Public Safety
18 Section 5–206
19 Annotated Code of Maryland
20 (2003 Volume and 2010 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Criminal Law**

24 4–204.

25 (a) (1) IN THIS SECTION, “FIREARM” MEANS:

26 (I) A WEAPON THAT EXPELS, IS DESIGNED TO EXPEL, OR
27 MAY READILY BE CONVERTED TO EXPEL A PROJECTILE BY THE ACTION OF AN
28 EXPLOSIVE; OR

29 (II) THE FRAME OR RECEIVER OF SUCH A WEAPON.

30 (2) “FIREARM” INCLUDES AN ANTIQUE FIREARM, HANDGUN,
31 RIFLE, SHOTGUN, SHORT–BARRELED RIFLE, SHORT–BARRELED SHOTGUN,
32 STARTER GUN, OR ANY OTHER FIREARM, WHETHER LOADED OR UNLOADED.

33 (B) A person may not use [an antique firearm capable of being concealed on
34 the person or any handgun] A FIREARM in the commission of a crime of violence, as

1 defined in § 5–101 of the Public Safety Article, or any felony, whether the [antique
2 firearm or handgun] FIREARM is operable or inoperable at the time of the crime.

3 **[(b)] (C)** (1) (i) A person who violates this section is guilty of a
4 misdemeanor and, in addition to any other penalty imposed for the crime of violence or
5 felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding
6 20 years.

7 (ii) The court may not impose less than the minimum sentence
8 of 5 years and, except as otherwise provided in § 4–305 of the Correctional Services
9 Article, the person is not eligible for parole in less than 5 years.

10 (2) For each subsequent violation, the sentence shall be consecutive to
11 and not concurrent with any other sentence imposed for the crime of violence or felony.

12 **Article – Public Safety**

13 5–133.

14 (c) (1) A person may not possess a regulated firearm if the person was
15 previously convicted of:

16 (i) a crime of violence; or

17 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, ~~§ 5–606, §~~
18 ~~5–607, § 5–608, § 5–609, § 5–612, § 5–613, or § 5–614~~ of the Criminal Law Article.

19 (2) **(I) [A] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
20 A person who violates this subsection is guilty of a felony and on conviction is subject
21 to imprisonment for not less than 5 years[, no part of which may be suspended.

22 (3) A person sentenced under paragraph (1) of this subsection may not
23 be eligible for parole] **AND NOT EXCEEDING 15 YEARS.**

24 **(II) THE COURT MAY NOT SUSPEND ANY PART OF THE**
25 **MANDATORY MINIMUM SENTENCE OF 5 YEARS.**

26 **(III) EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE**
27 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR**
28 **PAROLE DURING THE MANDATORY MINIMUM SENTENCE.**

29 **(3) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A**
30 **PERIOD OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED**
31 **SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER**
32 **SUBSECTION (C)(1)(I) OR (II) OF THIS SECTION, INCLUDING ALL**
33 **IMPRISONMENT, MANDATORY SUPERVISION, PROBATION, AND PAROLE:**

1 (I) THE IMPOSITION OF THE MANDATORY MINIMUM
2 SENTENCE IS WITHIN THE DISCRETION OF THE COURT; AND

3 (II) THE MANDATORY MINIMUM SENTENCE MAY NOT BE
4 IMPOSED UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING
5 AT LEAST 30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE
6 MANDATORY MINIMUM SENTENCE.

7 (4) Each violation of this subsection is a separate crime.

8 5-143.

9 (a) Except as otherwise provided in this subtitle, a dealer or other person
10 may not knowingly participate in the illegal sale, rental, transfer, purchase,
11 possession, or receipt of a regulated firearm in violation of this subtitle.

12 (b) A person who violates this section is guilty of a misdemeanor and on
13 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding
14 \$10,000 or both.

15 (c) Each violation of this section is a separate crime.

16 5-206.

17 (A) A PERSON MAY NOT POSSESS A RIFLE OR SHOTGUN IF THE PERSON
18 WAS PREVIOUSLY CONVICTED OF:

19 (1) A CRIME OF VIOLENCE; OR

20 (2) A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, ~~§ 5-606, §~~
21 ~~5-607, § 5-608, § 5-609,~~ § 5-612, § 5-613, OR § 5-614 OF THE CRIMINAL LAW
22 ARTICLE.

23 (B) ~~(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A~~ A PERSON
24 WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS
25 SUBJECT TO IMPRISONMENT ~~FOR NOT LESS THAN 5 YEARS AND~~ NOT EXCEEDING
26 15 YEARS.

27 ~~(2) THE COURT MAY NOT SUSPEND ANY PART OF THE~~
28 ~~MANDATORY MINIMUM SENTENCE OF 5 YEARS.~~

29 ~~(3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE~~
30 ~~CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR~~
31 ~~PAROLE DURING THE MANDATORY MINIMUM SENTENCE.~~

1 ~~(C) AT THE TIME OF THE COMMISSION OF THE OFFENSE, IF A PERIOD~~
 2 ~~OF MORE THAN 5 YEARS HAS ELAPSED SINCE THE PERSON COMPLETED~~
 3 ~~SERVING THE SENTENCE FOR THE MOST RECENT CONVICTION UNDER~~
 4 ~~SUBSECTION (A)(1) OR (2) OF THIS SECTION, INCLUDING ALL IMPRISONMENT,~~
 5 ~~MANDATORY SUPERVISION, PROBATION, AND PAROLE;~~

6 ~~(1) THE IMPOSITION OF THE MANDATORY MINIMUM SENTENCE IS~~
 7 ~~WITHIN THE DISCRETION OF THE COURT; AND~~

8 ~~(2) THE MANDATORY MINIMUM SENTENCE MAY NOT BE IMPOSED~~
 9 ~~UNLESS THE STATE'S ATTORNEY NOTIFIES THE PERSON IN WRITING AT LEAST~~
 10 ~~30 DAYS BEFORE TRIAL OF THE STATE'S INTENTION TO SEEK THE MANDATORY~~
 11 ~~MINIMUM SENTENCE.~~

12 ~~(D)~~ (C) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 14 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.